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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/542,990

07/21/2005

Roland C Santa Ana

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64275 7590 08/14/2007  
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EXAMINER

GRANT, ALVIN J

ART UNIT

PAPER NUMBER

3723

MAIL DATE

DELIVERY MODE

08/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

hmm

<b>Office Action Summary</b>	Application No. 10/542,990	Applicant(s) SANTA ANA, ROLAND C	
	Examiner Alvin J. Grant	Art Unit 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 July 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. <u>attached</u> .                           |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application  |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____.                          |

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The Final Rejection of 3/26/07 has been withdrawn and replaced with the following Office Action because of the conclusions of Telephonic Interview of 7/16/07 attached herewith.

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because it does not define "transversely apically rounded" flared claws .

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 20-22** are rejected under 35 U.S.C. 102(e) as being anticipated by Te 6,571,666.

Te discloses a hammer, the hammer comprising: a handle (22); a stationary hammerhead (24), affixed to the handle, with a striking face (26) and a side surface defining multiple, varying-sized nail-retention grooves (20) dimensioned

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to orient the nails toward said striking face; wherein each of the nail-retention grooves is dimensioned to releasably accept both a shaft of a nail and a head of a nail (Fig. 2); and a magnetic core (29), disposed within the hammerhead, in magnetic communication with each of the nail-retention grooves; at least one of the nail-retention grooves comprise a frustoconical groove proximate to a cylindrical groove (best shown in Fig. 12); the magnetic core comprises multiple magnets, wherein each of the nail-retention grooves includes at least one magnet embedded therein.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claim 23**, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen D534,409 in view of Hu 6,283,449.

Chen discloses the claimed invention (see Fig. 2) except for each of the claws terminating in a nail removal void that differs in size one from the other. Hu discloses a hammer having the claws terminating in a nail removal void that differs in size one from the other so as to effectively manipulate nails having differing sizes. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made each of the claws of Chen's

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hammer to terminate in a nail removal void that differs in size one from the other so as to effectively manipulate nails having differing sizes.

6. **Claims 17-19**, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Hu and in further view of Te.

Chen, Hu and Te are described above. Chen as modified by Hu above discloses the claimed invention except for a magnetized head having multiple peripheral nail-retention grooves. Te discloses a hammer having multiple peripheral nail-retention grooves so as to ensure that nails are readily available for use. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the hammer head of the modified Chen to have multiple peripheral nail-retention grooves as taught by Te so as to ensure that nails are readily available for use.

### ***Response to Arguments***

Applicant's arguments with respect to claims 17-23 have been considered but are moot in view of the new ground(s) of rejection. However the following items are noted:

- Applicant has claimed "a pair of transversely apically-rounded, flared claws" which is not clearly defined in the specification.
- Applicant has not claimed a rounded apex of the hammerhead as indicated in the arguments.
- The claws of Fig. 4a are not flared; and therefore, contradict the purpose given (for the flairs) in Applicant's arguments.

### ***Conclusion***

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin J. Grant whose telephone number is (571) 272-4484. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Alvin J Grant  
Patent Examiner  
Art Unit 3723

ajg